

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1324

H.P. 927

House of Representatives, March 27, 1991

Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative HOGLUND of Portland.

Cosponsored by Representative RAND of Portland, Representative GRAHAM of Houlton and Representative BELL of Caribou.

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STATE OF MAINE

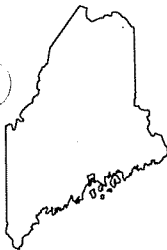
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

---

**An Act to Amend the Laws Regulating Aestheticians.**

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Be it enacted by the People of the State of Maine as follows:

2  
4       Sec. 1. 32 MRSA §1551, sub-§4, as amended by PL 1987, c. 677,  
§1, is repealed and following enacted in its place:

6       4. Cosmetology. "Cosmetology" means the practice of beauty  
7 culture and hairdressing. For the purposes of this chapter,  
8 beauty culture and hairdressing are the branches of cosmetology.  
9 "Comestology" does not include the practice of electrolysis or  
10 aesthetics.

12       Sec. 2. 32 MRSA §1551, sub-§7, as enacted by PL 1987, c. 677,  
13 §2, is repealed and following enacted in its place:

14       7. Aesthetics. "Aesthetics" means any one or a combination  
15 of the following practices:

16       A. Applying the hands, mechanical apparatus or electric  
17 pulverizers, vac-spray electric powered atomizer machines,  
18 woods lamps and brush units; with or without cosmetic  
19 preparations, tonics, lotions, creams, antiseptics or clays;  
20 to massage, cleanse, stimulate, manipulate, exercise or  
21 otherwise to improve or beautify the scalp, face, neck,  
22 shoulders, arms or hands of any person.

24       Sec. 3. 32 MRSA §1551, sub-§§8 to 11 are enacted to read:

26       8. Beauty culture. "Beauty culture" means any one or a  
27 combination of the following practices:

28       A. Applying the hands, with or without cosmetic  
29 preparations, tonics, lotions, creams, antiseptics or clays;  
30 to massage, cleanse, stimulate, manipulate, exercise or  
31 otherwise to improve or beautify the scalp, face, neck,  
32 shoulders, arms, hands or to manicure the fingernails or  
33 toenails of any person.

34       9. Clinical aesthetics. "Clinical aesthetics" means any  
35 one or a combination of the following practices:

36       A. Applying the hands or any mechanical or electrical  
37 apparatus with or without cosmetic preparations, tonics,  
38 lotions, creams, antiseptics or clays to massage, cleanse,  
39 stimulate, wax, tone, exercise or otherwise improve,  
40 beautify or provide paramedical treatment or skin care  
41 therapy to any part of the body of any person;

42       B. Trimming eyebrows; or

43       C. Dyeing eyelashes or eyebrows.

2           10. Hair dressing. "Hair dressing" means any one or a  
3           combination of the following practices:

4           A. Arranging, dressing, curling, waving, cleansing,  
5           cutting, singeing, bleaching, coloring or similarly treating  
6           the hair of any person; or

8           B. Arranging, dressing, curling, waving, cleansing,  
9           cutting, singeing, bleaching, coloring or similarly treating  
10           a wig, wiglet or hair piece made of human hair, animal hair  
11           or synthetics.

12           11. Paramedical treatment and skin care therapy.  
13           "Paramedical treatment and skin care therapy" means:

14           A. Deep peeling treatments;

16           B. Cosmetic camouflage therapy;

18           C. Advanced acne treatments;

20           D. Clinical hand and foot treatments;

22           E. Massage therapy;

24           F. Body waxing; or

26           G. Cellulite treatments.

28           Sec. 4. 32 MRSA §1553-A, as amended by PL 1989, c. 700, Pt.  
29           A, §140, is further amended to read:

30           §1553-A. Instructors of cosmetology

31           No A person may not be engaged to instruct in any of the  
32           branches of cosmetology unless that person has a license to  
33           practice cosmetology under this chapter, except physicians as  
34           specified. To be eligible to instruct in aesthetics or clinical  
35           aesthetics a person must be a licensed clinical aesthetician.

36           The board and the Department of Education shall make rules  
37           for the examination of applicants for licensure as instructors of  
38           aesthetics, clinical aesthetics and cosmetology, in accordance  
39           with the Maine Administrative Procedure Act, Title 5, chapter  
40           375, subchapter II. Examination applications shall must be  
41           furnished by the board. The application shall must be filed with  
42           the secretary of the board and shall be accompanied by an  
43           examination fee which ~~shall include~~ that includes licensure, if  
44           examination is satisfactory. All licenses as instructors shall  
45           expire June 30th biennially.

2           Sec. 5. 32 MRSA §1555, first ¶, as amended by PL 1987, c. 395,  
Pt. A, §148, is further amended to read:

4           Any person engaged in the practice of aesthetics, clinical  
6           aesthetics or cosmetology in this State without having obtained a  
license as provided by this chapter or employing a person to  
8           practice aesthetics, clinical aesthetics or cosmetology who does  
not have such a license, unless the person is an apprentice  
10          within the meaning of this chapter, or falsely pretending to be  
qualified to practice aesthetics, clinical aesthetics or  
12          cosmetology under this chapter or violating any of the provisions  
of this chapter ~~shall be deemed~~ is guilty of a Class E crime.  
14          ~~Every such~~ A person ~~shall be deemed~~ is guilty of a separate and  
distinct offense for each month or part thereof during which ~~sueh~~  
16          the practice or employment ~~shall be~~ is repeated or continued  
after prosecution has been begun against ~~any such~~ the person for  
18          the violation of any of the provisions of this chapter.

20          Sec. 6. 32 MRSA §1601, sub-§1, as amended by PL 1989, c. 503,  
Pt. B, §128, is further amended to read:

22          1. **Membership.** The State Board of Cosmetology, as  
established by Title 5, section 12004-A, subsection 9, and in  
24          this chapter designated as the "board," ~~shall consist~~ consists of  
7 members who ~~shall must~~ be citizens of this State, ~~5 4~~ of whom  
26          ~~shall must~~ have been engaged in the practice of cosmetology for  
at least 3 years immediately prior to their appointment, ~~one of~~  
28          ~~whom must be a clinical aesthetician, one of whom must be an~~  
employee of the Department of Education familiar with the  
30          licensing of cosmetology schools and one of whom ~~shall must~~ be a  
representative of the public.

32          The members of the board ~~shall must~~ be appointed by the Governor  
34          and their terms ~~shall be are~~ for 3 years. ~~Nene of them may be~~ The  
member's are eligible to serve more than 3 consecutive 3-year  
36          terms or to serve more than 9 years consecutively, provided that  
for this purpose only a period actually served which exceeds 1/2  
38          of the 3-year term ~~shall be~~ is deemed a full term. Upon  
expiration of a member's term, that member shall serve until a  
40          successor is qualified and appointed. The successor's term shall  
be is 3 years from the date of the expiration, regardless of the  
42          date of appointment. The cosmetologist and clinical aesthetician  
members ~~shall must~~ at all times be ~~registered cosmetologists~~  
44          licensed practitioners and ~~shall must~~ be actively engaged in the  
practice during their membership on the board. A board member  
46          may be removed by the Governor for cause.

48          Any vacancy in the board ~~shall must~~ be filled by the appointment  
by the Governor of a person, qualified as was the board member  
50          being replaced, to hold office during the unexpired term of the  
member whose place is thus filled.

52

2        ~~No~~ A person operating or employed by a school of cosmetology may  
3        ~~not~~ be appointed as a member of the board. If any member of the  
4        board, after appointment, shall ~~become~~ becomes affiliated in any  
5        way with ~~any--such~~ a school of cosmetology, that person's  
6        membership on the board shall ~~immediately terminate~~ terminates  
7        and the unexpired term of that member shall must be filled by the  
8        Governor.

9                **Sec. 7. 32 MRSA §1602, sub-§1**, as amended by PL 1987, c. 395,  
10        Pt. A, §151, is further amended to read:

11                **1. Board to administer, coordinate and enforce.** The board  
12        shall administer, coordinate and enforce this chapter, evaluate  
13        the qualifications, develop by rulemaking and supervise the  
14        examinations of applicants for licensure under this chapter and  
15        shall, at its discretion, investigate allegations of violations  
16        of this chapter. By rulemaking, the board shall specify the  
17        courses and hours necessary to meet the educational requirements  
18        for licensure. The board shall keep such records and minutes as  
19        are necessary to the ordinary dispatch of its functions.

20                Any member or employee of the board may enter and make reasonable  
21        examination of any beauty shop during business hours for the  
22        purpose of ascertaining whether or not the rules are being  
23        observed.

24                **Sec. 8. 32 MRSA §1602, sub-§6** is enacted to read:

25                **6. Consumer education.** The board shall develop a brochure  
26        that explains the licenses available under its supervision and  
27        the requirements for obtaining each license. The board shall  
28        make copies of the brochure available at no cost to all licensees  
29        in sufficient quantities to be given to their customers. A  
30        licensee shall place copies of the brochure in a prominent place  
31        where they may be seen by their customers. The cost of  
32        production of this brochure must be paid by the board from income  
33        produced by licensing fees.

34                **Sec. 9. 32 MRSA §1651**, as amended by PL 1987, c. 395, Pt. A,  
35        §156, is further amended to read:

36                **§1651. Registration and licenses**

37                ~~No~~ A person may not practice aesthetics, clinical aesthetics  
38        or cosmetology in this State unless that person shall first have  
39        obtained obtains a license as provided in this chapter or unless  
40        that person shall ~~be~~ is acting within the scope of employment as  
41        an apprentice.

42                An apprentice ~~cosmetologist~~ may not independently practice  
43        cosmetology but may, as an apprentice, do any or all acts  
44        constituting the practice ~~of--cosmetology~~ under the immediate

2 personal supervision of a licensed cosmetologist practitioner.  
3 Only one such apprentice shall may be employed in any licensed  
4 beauty shop.

5  
6 No A person, firm or corporation may not operate or cause to  
7 be operated a shop where aesthetics, clinical aesthetics or  
8 cosmetology is practiced unless that shop has been duly licensed  
9 by the board. Any new shop or a currently licensed shop that  
10 undergoes a change in location or ownership shall ~~be required to~~  
11 either apply or reapply, respectively, for licensure with the  
12 board. The license shall ~~run~~ runs from the first day of July  
13 biennially and the fee shall ~~be~~ is payable to the board. Booths,  
14 attached to or within a beauty shop that are operated  
15 independently thereof, shall ~~be~~ are subject to license fees in  
16 the same manner as an independent shop.

17  
18 An apprentice manicurist may not independently practice  
19 manicuring but may, as an apprentice, do any or all acts  
20 constituting the practice of manicuring and pedicuring under the  
21 immediate personal supervision of a licensed cosmetologist or  
22 licensed manicurist. Only one such apprentice shall may be  
employed in any licensed beauty shop.

23 Sec. 10. 32 MRSA §1652-A, sub-§§1 and 2, as enacted by PL 1987,  
24 c. 677, §3, are amended to read:

25  
26 1. Age. Is at least ~~17~~ 18 years of age;

27  
28 2. Education. Has ~~completed the 10th grade in a~~ graduated  
29 from secondary school or its equivalent;

30  
31 Sec. 11. 32 MRSA §1652-A, sub-§3, as amended by PL 1989, c.  
32 700, Pt. A, §143, is repealed and the following enacted in its  
33 place:

34  
35 3. Professional education and training. The following are  
36 the qualifications for licensure:

37  
38 A. A person is eligible to obtain a license as a clinical  
39 aesthetician who has:

40  
41 (1) Met the requirements for licensing as an  
42 aesthetician;

43  
44 (2) At least 2 years full-time experience as an  
45 aesthetician;

46  
47 (3) An additional 750 hours of professional education  
48 from a clinical aesthetician in the same educational  
49 environment as required of the aesthetician, except  
50 that the environment must be a clinical one and  
51 separate from the education of cosmetologists; and  
52

2                   (4) Participated yearly in advanced training in a  
4                   clinical environment for a total of at least 24 hours  
                  in the last 2 years combined; or

6                   B. A person is eligible to obtain a license as an  
                  aesthetician who has:

8                   (1) Satisfactorily completed 750 hours of instruction  
10                  in courses specified by the board, taught by a clinical  
12                  aesthetician, in a school licensed by the Commissioner  
14                  of Education and providing the courses that the board  
16                  requires for licensure to practice. This education  
                  must be completed in not less than 5 months and within  
                  3 years of applying for licensure; or

18                  (2) Been certified by an aesthetician or clinical  
20                  aesthetician as having satisfactorily completed at  
                  least 1,875 hours of apprenticeship under the direction  
                  and supervision of that aesthetician;

22                  Apprentices and students in each branch of aesthetics are  
24                  governed by the provisions of this chapter dealing with  
                  apprentice and student cosmetologists.

26                  Sec. 12. 32 MRSA §1652-A, sub-§4, as enacted by PL 1987, c.  
28                  677, §3, is amended to read:

30                  4. Examination. Has satisfactorily passed an examination  
32                  conducted by the board to determine fitness to receive a license  
34                  to practice. The examination must include a practical  
36                  examination to be administered in a clinical environment by a  
                  person who has a license, the qualifications for which are at  
                  least equivalent to the license for which the examination is  
                  given. The board shall provide a different level of examination  
                  for aesthetician and clinical aesthetician.

38                  Each applicant for examination shall file an application with the  
40                  secretary of the board as provided in section 1652.

42                  Sec. 13. 32 MRSA §1657-B, sub-§1, ¶¶C, D and E, as enacted by  
                  PL 1987, c. 395, Pt. A, §167, is amended to read:

44                  C. For original and biennial renewal of shop license, ~~35~~  
46                  \$40;

48                  D. For a ~~hairdresser's~~ cosmetologist's examination, \$15;

50                  E. For original and biennial renewal of a ~~hairdresser~~  
                  cosmetologist's license, ~~35~~ \$40;



2            Sec. 14. 32 MRSA §1657-B, sub-§1, ¶¶K and L, as enacted by PL  
1987, c. 677, §7, are amended to read:

4            K. For ~~aesthetieian~~ aesthetician's examination, \$15; and

6            L. For original and biennial renewal of an ~~aesthetieian~~  
aesthetician's license, \$35. ; and

8            Sec. 15. 32 MRSA §1657-B, sub-§1, ¶¶M is enacted to read:

10            M. For original and biennial renewal of a clinical  
12            aesthetician's license, \$40.

14            Sec. 16. Transition. Upon the next 2 expirations of the terms  
16 of board members after the effective date of this Act, except the  
public member, those members must be replaced by a clinical  
18 aesthetician and an employee of the Department of Education, in  
that order, as provided in the Maine Revised Statutes, Title 32,  
20 section 1601.

## 22            STATEMENT OF FACT

24            This bill does the following:

26            1. Divides the definition of cosmetology into 2 branches;  
beautician and hairdresser and specifies that it is not necessary  
28 to have a cosmetology license to practice electrolysis;

30            2. Eliminates from the practice of beauty culture the use  
of mechanical and electrical apparatus and eliminates the  
32 authority to practice on the legs or feet;

34            3. Changes the definition of aesthetics so that it is  
similar to that for beauty culture, except that an aesthetician  
36 may not practice manicuring and may use mechanical and electrical  
apparatus;

38            4. Provides qualifications for the licensure of an  
40 aesthetician that are the same as those currently in the law,  
except that the age is raised from 17 years of age to 18 years of  
42 age and the education qualification from 10th grade to high  
school graduate. Apprenticeship of 1,875 hours is offered as an  
44 alternative to the educational requirement;

46            5. Changes the practice currently called "aesthetics" to  
"clinical aesthetics" and adds skin care therapy and paramedical  
48 treatment to the clinical aesthetics practice and defines those  
terms. The qualifications for licensure as a clinical aesthetician  
50 are 2 years of practice as an aesthetician and 750 additional  
hours of education;

52

- 2           6. Requires that to be accredited for licensing as an  
3 aesthetician or a clinical aesthetician, courses in aesthetics  
4 and clinical aesthetics must be taught by a licensed clinical  
5 aesthetician and courses in clinical aesthetics must be taught in  
6 an environment separate from courses in cosmetology;
- 7           7. Requires that for an aesthetics license or clinical  
8 aesthetics a practical examination in a clinical environment must  
9 be administered by a person with a license at least equivalent to  
10 the one being applied for;
- 11           8. Makes the following changes in the composition and  
12 duties of the State Board of Cosmetology:
- 13           A. Requires that a member of the board whose qualifications  
14 are currently unspecified be a clinical aesthetician;
- 15           B. Replaces one of the cosmetologist members with an  
16 employee of the Department of Education who is familiar with  
17 the licensing of cosmetology schools;
- 18           C. Requires that the board specify by rulemaking the  
19 courses required to meet the educational requirement for  
20 licensure;
- 21           D. Requires the board to produce, and licensees to  
22 distribute, a brochure that describes the various licenses  
23 issued by the board and the qualifications for each; and
- 24           E. Requires that the board develop by rulemaking the  
25 license examinations; and
- 26           9. Raises the license allowed fees for cosmetologists and  
27 shops by \$5 in order to pay for the consumer education brochure  
28 and establishes a \$40 license fee for clinical aestheticians.
- 29  
30  
31  
32  
33  
34